IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

TUESDAY, THE FIFTH DAY OF APRIL
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE V.ESWARAIAH

WRIT PETITION NO : 20421 of 2002

Between:

D.Tarakaprasad s/o.Vijayasai, Advocate,

R/o.Narayanapuram, Unguturu Mandal,

West Godavari District.

..... PETITIONER

AND

1. The Superintendent of Police, Eluru,

West Godavari District.

2. Station House Officer, Chebrolu Police Station, Chebrolu,

West Godavari District.

3. Sri M.J.V.Bhaskara Rao, Sub Inspector of Police,

Chebrolu Police Station, Chebrolu, West Godavari Dist

4. Nekkalapudi Veera Venkata Sathyanarayana

S/o.Venkateswara Rao, Cultivation, Gollagudem,

Unguturu Mandal, West Godavari Dist.

5. Tadiparti Harikrishna s/o.Govardhan Rao

Isampet, Tenali, Guntur District.

.....RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a writ, order or direction more particularly one in the nature of Writ of Mandamus declaring the action of the respondents 1 to 3 in registering the false cases against the petitioner and not registering the cases against the respondents 4 and 5 though they have committed cognizable offence as per the complaints given by themselves as arbitrary, illegal and unconstitutional and consequently direct the respondents to register the crime against the respondents 4 and 5 also and proceed with the investigation of the crime along with the petitioner.

Counsel for the Petitioner: MR.RAMA RAO GHANTA

Counsel for the Respondent Nos.1 to 3: GP FOR HOME

Counsel for the respondent Nos.4 and 5: None appears

The Court made the following:

ORDER:

The petitioner seeks for issuing writ of mandamus declaring the action of the respondents 1 to 3 in registering false cases against him and not registering cases against respondents 4 and 5, who are the complainants, as illegal and arbitrary and consequently direct the respondents to register the crime against respondents 4 and 5 also and proceed with the investigation.

It is stated that when the petitioner brought a search warrant in Cr.No.108 of 1998 for illegally detaining his brother, the police started harassing him by registering one or other crimes against him. It is further stated that when respondents 4 and 5 gave a complaint against the petitioner and they in fact also guilty for the commission of cognizable offence under Section 489-B IPC, the 2nd respondent has failed to register the said crime against respondents 4 and 5.

I have perused the averments in the counter affidavit filed by respondents 1 to 3. They have denied all the allegations made by the petitioner and stated that no case is made out against respondents 4 and 5 for the offence under Section 489-B IPC though it is the case of the petitioner that the offence committed by him attracts the provisions of Section 489 IPC but not under Section 420 IPC. It is stated that no fake currency is used and, therefore, all the acts of the petitioner for playing tricks to make believe the complainants and induced them clearly attracts the provisions of Section

420 IPC, but not Section 489 IPC.

Therefore, I am of the opinion that the petitioner has filed this writ petition by making frivolous allegations in order to stall the trial of cases in C.C.No.256 of 1999, C.C.No.88 of 2002 and C.C.No.314 of 2002 for the offence under Section 420 IPC, which are pending trial in the Court of the Additional Judicial First Class Magistrate, Tadepalligudem. The petitioner involved in the cases since 1994 onwards. Therefore, it cannot be said that merely because the petitioner brought search warrant against the police, they bore grudge against him. When there is mechanism available under the Code of Criminal Procedure, it is open for the petitioner to avail all the remedies. I am of the view that to circumvent the criminal action already set in motion and charge sheets were also filed, it is not open for the petitioner to interdict the said trial of cases against the petitioner. There are serious allegations against the petitioner stating that he cheated innocent public by inducing them to give double amount. Therefore, the said offences alleged falls under Section 420 IPC alone, but not under Section 489 IPC.

In that view of the matter, I do not see any merit in the writ petition and it is, accordingly, dismissed. No order as to costs.

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(V.ESWARAIAH, J.)

5.4.2005

kpr

To

1. The Superintendent of Police, Eluru,

West Godavari District.

2. Station House Officer, Chebrolu Police Station, Chebrolu,

West Godavari District.

3. Sri M.J.V.Bhaskara Rao, Sub Inspector of Police,

Chebrolu Police Station, Chebrolu, West Godavari Dist

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